

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DOROTHY GRANT,
Plaintiff,

v.

WESTAFF TEMPORARY AGENCY,
Defendant

No. C-04-0277 MMC

**ORDER DENYING MOTION FOR RELIEF
FROM JUDGMENT**

(Docket No. 96)

Before the Court is plaintiff Dorothy Grant's ("Grant") motion for relief from judgment on the ground of excusable neglect, filed June 6, 2006. The Court construes the motion as a motion for relief from judgment pursuant to Rule 60(b)(1) of the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 60(b)(1) (authorizing court to relieve party from final judgment on basis of party's excusable neglect).

Grant has submitted no evidence in support of her motion, as the statements of fact asserted therein are not set forth in a declaration filed under penalty of perjury. See 28 U.S.C. § 1746. Consequently, Grant has neither demonstrated excusable neglect for her failure to respond to defendants' motion for summary judgment, nor has she demonstrated that if she had opposed the motion, she would have submitted evidence sufficient to raise a triable issue of material fact. See, e.g., Casey v. Albertson's Inc., 362 F.3d 1254, 1260 (9th Cir. 2004) (affirming denial of Rule 60(b) motion where moving party failed to set forth

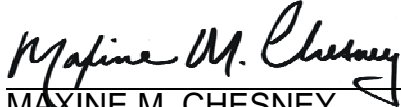
1 evidence that "would have changed the outcome of the summary judgment hearing").

2 Accordingly, Grant's motion for relief from judgment is hereby DENIED.

3 This order terminates Docket No. 96.

4 **IT IS SO ORDERED.**

5 Dated: June 9, 2006


MAXINE M. CHESNEY
United States District Judge